

AMENDED IN ASSEMBLY JUNE 27, 2003

AMENDED IN SENATE APRIL 24, 2003

SENATE BILL

No. 806

Introduced by Senator Sher

February 21, 2003

An act to amend Sections 65089.6, 65302, 65563, 66484, and 66484.3 of the Government Code, to amend Section 99150 of the Public Utilities Code, to amend Section 75.9 of the Streets and Highways Code, and to amend Sections 21101 and 35701 of the Vehicle Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 806, as amended, Sher. General plans: transportation element.

Existing

(1) *Existing* law requires a general plan to include a statement of development policies and, among other elements, a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

This bill would rename the circulation element the transportation element and make other technical and conforming changes.

(2) *Existing law requires every city and county, on or before December 31, 1973, to prepare, adopt, and submit to the Secretary of the Resources Agency a local open-space plan for the comprehensive and long-range preservation and conservation of open-space land within its jurisdiction.*

This bill would delete both the date from the above specified provisions and those provisions that require every city and county to prepare, adopt, and submit an interim open-space plan by August 31, 1972, to be in effect until December 31, 1973.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65089.6 of the Government Code is
2 amended to read:
3 65089.6. Failure to complete or implement a congestion
4 management program shall not give rise to a cause of action
5 against a city or county for failing to conform with its general plan,
6 unless the city or county incorporates the congestion management
7 program into the transportation element of its general plan.
8 SEC. 2. Section 65302 of the Government Code is amended
9 to read:
10 65302. The general plan shall consist of a statement of
11 development policies and shall include a diagram or diagrams and
12 text setting forth objectives, principles, standards, and plan
13 proposals. The plan shall include the following elements:
14 (a) A land use element that designates the proposed general
15 distribution and general location and extent of the uses of the land
16 for housing, business, industry, open space, including agriculture,
17 natural resources, recreation, and enjoyment of scenic beauty,
18 education, public buildings and grounds, solid and liquid waste
19 disposal facilities, and other categories of public and private uses
20 of land. The land use element shall include a statement of the
21 standards of population density and building intensity
22 recommended for the various districts and other territory covered
23 by the plan. The land use element shall identify areas covered by
24 the plan which are subject to flooding and shall be reviewed
25 annually with respect to those areas. The land use element shall
26 also do both of the following:
27 (1) Designate in a land use category that provides for timber
28 production those parcels of real property zoned for timberland
29 production pursuant to the California Timberland Productivity
30 Act of 1982, Chapter 6.7 (commencing with Section 51100) of
31 Part 1 of Division 1 of Title 5.



(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information that the military provides.

(B) The following definitions govern this paragraph:

(i) “Military readiness activities” mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) “Military installation” means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) A transportation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies that have

1 developed, served, controlled or conserved water for any purpose
2 for the county or city for which the plan is prepared. Coordination
3 shall include the discussion and evaluation of any water supply and
4 demand information described in Section 65352.5, if that
5 information has been submitted by the water agency to the city or
6 county. The conservation element may also cover the following:

7 (1) The reclamation of land and waters.

8 (2) Prevention and control of the pollution of streams and other
9 waters.

10 (3) Regulation of the use of land in stream channels and other
11 areas required for the accomplishment of the conservation plan.

12 (4) Prevention, control, and correction of the erosion of soils,
13 beaches, and shores.

14 (5) Protection of watersheds.

15 (6) The location, quantity and quality of the rock, sand and
16 gravel resources.

17 (7) Flood control.

18 The conservation element shall be prepared and adopted no later
19 than December 31, 1973.

20 (e) An open-space element as provided in Article 10.5
21 (commencing with Section 65560).

22 (f) A noise element which shall identify and appraise noise
23 problems in the community. The noise element shall recognize the
24 guidelines established by the Office of Noise Control in the State
25 Department of Health Services and shall analyze and quantify, to
26 the extent practicable, as determined by the legislative body,
27 current and projected noise levels for all of the following sources:

28 (1) Highways and freeways.

29 (2) Primary arterials and major local streets.

30 (3) Passenger and freight online railroad operations and ground
31 rapid transit systems.

32 (4) Commercial, general aviation, heliport, helistop, and
33 military airport operations, aircraft overflights, jet engine test
34 stands, and all other ground facilities and maintenance functions
35 related to airport operation.

36 (5) Local industrial plants, including, but not limited to,
37 railroad classification yards.

38 (6) Other ground stationary noise sources, including, but not
39 limited to, military installations, identified by local agencies as
40 contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards. Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the Division of Mines and Geology of the Department of Conservation and the Office of Emergency Services for the purpose of including information known by and available to the department and the office required by this subdivision.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the Division of Mines

1 and Geology of the Department of Conservation one copy of a
2 draft of the safety element or amendment and any technical studies
3 used for developing the safety element. The division may review
4 drafts submitted to it to determine whether they incorporate known
5 seismic and other geologic hazard information, and report its
6 findings to the planning agency within 30 days of receipt of the
7 draft of the safety element or amendment pursuant to this
8 subdivision. The legislative body shall consider the division's
9 findings prior to final adoption of the safety element or
10 amendment unless the division's findings are not available within
11 the above prescribed time limits or unless the division has
12 indicated to the city or county that the division will not review the
13 safety element. If the division's findings are not available within
14 those prescribed time limits, the legislative body may take the
15 division's findings into consideration at the time it considers future
16 amendments to the safety element. Each county and city shall
17 provide the division with a copy of its adopted safety element or
18 amendments. The division may review adopted safety elements or
19 amendments and report its findings. All findings made by the
20 division shall be advisory to the planning agency and legislative
21 body.

22 *SEC. 2.5. Section 65563 of the Government Code is amended*
23 *to read:*

24 ~~65563. On or before December 31, 1973, every~~ Every city
25 and county shall prepare, adopt and submit to the Secretary of the
26 Resources Agency a local open-space plan for the comprehensive
27 and long-range preservation and conservation of open-space land
28 within its jurisdiction. ~~Every city and county shall by August 31,~~
29 ~~1972, prepare, adopt and submit to the Secretary of the Resources~~
30 ~~Agency, an interim open-space plan, which shall be in effect until~~
31 ~~December 31, 1973, containing, but not limited to, the following:~~

32 ~~(a) The officially adopted goals and policies which will guide~~
33 ~~the preparation and implementation of the open-space plan; and~~

34 ~~(b) A program for orderly completion and adoption of the~~
35 ~~open-space plan by December 31, 1973, including a description of~~
36 ~~the methods by which open-space resources will be inventoried~~
37 ~~and conservation measures determined.~~

38 *SEC. 3. Section 66484 of the Government Code is amended*
39 *to read:*

66484. (a) A local ordinance may require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares. The ordinance may require payment of fees pursuant to this section if all of the following requirements are satisfied:

(1) The ordinance refers to the transportation element of the general plan and, in the case of bridges, to the transportation or flood control provisions thereof which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads and in the case of major thoroughfares, to the provisions of the transportation element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to the state highway system, if the transportation element, transportation or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65091 and shall include preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the

1 area of benefit is located. The apportioned fees shall be applicable
2 to all property within the area of benefit and shall be payable as a
3 condition of approval of a final map or as a condition of issuing a
4 building permit for the property or portions of the property. Where
5 the area of benefit includes lands not subject to the payment of fees
6 pursuant to this section, the governing agency shall make
7 provision for payment of the share of improvement costs
8 apportioned to those lands from other sources.

9 (4) The ordinance provides that payment of fees shall not be
10 required unless the major thoroughfares are in addition to, or a
11 reconstruction of, any existing major thoroughfares serving the
12 area at the time of the adoption of the boundaries of the area of
13 benefit.

14 (5) The ordinance provides that payment of fees shall not be
15 required unless the planned bridge facility is an original bridge
16 serving the area or an addition to any existing bridge facility
17 serving the area at the time of the adoption of the boundaries of the
18 area of benefit. The fees shall not be expended to reimburse the
19 cost of existing bridge facility construction.

20 (6) The ordinance provides that if, within the time when
21 protests may be filed under the provisions of the ordinance, there
22 is a written protest, filed with the clerk of the legislative body, by
23 the owners of more than one-half of the area of the property to be
24 benefited by the improvement, and sufficient protests are not
25 withdrawn so as to reduce the area represented to less than one-half
26 of that to be benefited, then the proposed proceedings shall be
27 abandoned, and the legislative body shall not, for one year from
28 the filing of that written protest, commence or carry on any
29 proceedings for the same improvement or acquisition under the
30 provisions of this section.

31 (b) Any protest may be withdrawn by the owner protesting, in
32 writing, at any time prior to the conclusion of a public hearing held
33 pursuant to the ordinance.

34 (c) If any majority protest is directed against only a portion of
35 the improvement then all further proceedings under the provisions
36 of this section to construct that portion of the improvement so
37 protested against shall be barred for a period of one year, but the
38 legislative body may commence new proceedings not including
39 any part of the improvement or acquisition so protested against.
40 Nothing in this section prohibits a legislative body, within that

1 one-year period, from commencing and carrying on new
2 proceedings for the construction of a portion of the improvement
3 so protested against if it finds, by the affirmative vote of four-fifths
4 of its members, that the owners of more than one-half of the area
5 of the property to be benefited are in favor of going forward with
6 that portion of the improvement or acquisition.

7 (d) Nothing in this section precludes the processing and
8 recordation of maps in accordance with other provisions of this
9 division if the proceedings are abandoned.

10 (e) Fees paid pursuant to an ordinance adopted pursuant to this
11 section shall be deposited in a planned bridge facility or major
12 thoroughfare fund. A fund shall be established for each planned
13 bridge facility project or each planned major thoroughfare project.
14 If the benefit area is one in which more than one bridge is required
15 to be constructed, a fund may be so established covering all of the
16 bridge projects in the benefit area. Money in the fund shall be
17 expended solely for the construction or reimbursement for
18 construction of the improvement serving the area to be benefited
19 and from which the fees comprising the fund were collected, or to
20 reimburse the local agency for the cost of constructing the
21 improvement.

22 (f) An ordinance adopted pursuant to this section may provide
23 for the acceptance of considerations in lieu of the payment of fees.

24 (g) A local agency imposing fees pursuant to this section may
25 advance money from its general fund or road fund to pay the cost
26 of constructing the improvements and may reimburse the general
27 fund or road fund for any advances from planned bridge facility
28 or major thoroughfares funds established to finance the
29 construction of those improvements.

30 (h) A local agency imposing fees pursuant to this section may
31 incur an interest-bearing indebtedness for the construction of
32 bridge facilities or major thoroughfares. However, the sole
33 security for repayment of that indebtedness shall be moneys in
34 planned bridge facility or major thoroughfares funds.

35 (i) The term “construction” as used in this section includes
36 design, acquisition of right-of-way, administration of construction
37 contracts, and actual construction.

38 (j) The term “construction,” as used in this section, with
39 respect to the unincorporated area of San Diego County only,
40 includes design, acquisition of rights-of-way, and actual

1 construction, including, but not limited to, all direct and indirect
2 environmental, engineering, accounting, legal, administration of
3 construction contracts, and other services necessary therefor. The
4 term “construction,” with respect to the unincorporated area of
5 San Diego County only, also includes reasonable administrative
6 expenses, not exceeding three hundred thousand dollars
7 (\$300,000) in any calendar year after January 1, 1986, as adjusted
8 annually for any increase or decrease in the Consumer Price Index
9 of the Bureau of Labor Statistics of the United States Department
10 of Labor for all Urban Consumers, San Diego, California
11 (1967=100), as published by the United States Department of
12 Commerce for the purpose of constructing bridges and major
13 thoroughfares. “Administrative expenses” means those office,
14 personnel, and other customary and normal expenses associated
15 with the direct management and administration of the agency, but
16 not including costs of construction.

17 (k) Nothing in this section precludes a county or city from
18 providing funds for the construction of bridge facilities or major
19 thoroughfares to defray costs not allocated to the area of benefit.

20 SEC. 4. Section 66484.3 of the Government Code is amended
21 to read:

22 66484.3. (a) Notwithstanding Section 53077.5, the Board of
23 Supervisors of the County of Orange and the city council or
24 councils of any city or cities in that county may, by ordinance,
25 require the payment of a fee as a condition of approval of a final
26 map or as a condition of issuing a building permit for purposes of
27 defraying the actual or estimated cost of constructing bridges over
28 waterways, railways, freeways, and canyons, or constructing
29 major thoroughfares.

30 (b) The local ordinance may require payment of fees pursuant
31 to this section if:

32 (1) The ordinance refers to the transportation element of the
33 general plan and, in the case of bridges, to the transportation
34 provisions or flood control provisions of the general plan which
35 identify railways, freeways, streams, or canyons for which bridge
36 crossings are required on the general plan or local roads, and in the
37 case of major thoroughfares, to the provisions of the transportation
38 element which identify those major thoroughfares whose primary
39 purpose is to carry through traffic and provide a network
40 connecting to or which is part of the state highway system, and the

1 transportation element, transportation provisions, or flood control
2 provisions have been adopted by the local agency 30 days prior to
3 the filing of a map or application for a building permit. Bridges
4 which are part of a major thoroughfare need not be separately
5 identified in the transportation or flood control provisions of the
6 general plan.

7 (2) The ordinance provides that there will be a public hearing
8 held by the governing body for each area benefited. Notice shall
9 be given pursuant to Section 65905. In addition to the
10 requirements of Section 65905, the notice shall contain
11 preliminary information related to the boundaries of the area of
12 benefit, estimated cost, and the method of fee apportionment. The
13 area of benefit may include land or improvements in addition to
14 the land or improvements which are the subject of any map or
15 building permit application considered at the proceedings.

16 (3) The ordinance provides that at the public hearing, the
17 boundaries of the area of benefit, the costs, whether actual or
18 estimated, and a fair method of allocation of costs to the area of
19 benefit and fee apportionment are established. The method of fee
20 apportionment, in the case of major thoroughfares, shall not
21 provide for higher fees on land which abuts the proposed
22 improvement except where the abutting property is provided
23 direct usable access to the major thoroughfare. A description of the
24 boundaries of the area of benefit, the costs, whether actual or
25 estimated, and the method of fee apportionment established at the
26 hearing shall be incorporated in a resolution of the governing body,
27 a certified copy of which shall be recorded by the governing body
28 conducting the hearing with the recorder of the County of Orange.
29 The resolution may subsequently be modified in any respect by the
30 governing body. Modifications shall be adopted in the same
31 manner as the original resolution, except that the resolution of a
32 city or county which has entered into a joint exercise of powers
33 agreement pursuant to subdivision (f), relating to constructing
34 bridges over waterways, railways, freeways, and canyons or
35 constructing major thoroughfares by the joint powers agency, may
36 be modified by the joint powers agency following public notice
37 and a public hearing, if the joint powers agency has complied with
38 all applicable laws, including Chapter 5 (commencing with
39 Section 66000) of Division 1. Any modification shall be subject
40 to the protest procedures prescribed by paragraph (6). The

1 resolution may provide for automatic periodic adjustment of fees
2 based upon the California Construction Cost Index prepared and
3 published by the Department of Transportation, without further
4 action of the governing body, including, but not limited to, public
5 notice or hearing. The apportioned fees shall be applicable to all
6 property within the area of benefit and shall be payable as a
7 condition of approval of a final map or as a condition of issuing a
8 building permit for any of the property or portions of the property.

9 Where the area of benefit includes lands not subject to the payment
10 of fees pursuant to this section, the governing body shall make
11 provision for payment of the share of improvement costs
12 apportioned to those lands from other sources, but those sources
13 need not be identified at the time of the adoption of the resolution.

14 (4) The ordinance provides that payment of fees shall not be
15 required unless the major thoroughfares are in addition to, or a
16 reconstruction or widening of, any existing major thoroughfares
17 serving the area at the time of the adoption of the boundaries of the
18 area of benefit.

19 (5) The ordinance provides that payment of fees shall not be
20 required unless the planned bridge facility is an original bridge
21 serving the area or an addition to any existing bridge facility
22 serving the area at the time of the adoption of the boundaries of the
23 area of benefit. Fees imposed pursuant to this section shall not be
24 expended to reimburse the cost of existing bridge facility
25 construction, unless these costs are incurred in connection with the
26 construction of an addition to an existing bridge for which fees
27 may be required.

28 (6) The ordinance provides that if, within the time when
29 protests may be filed under its provisions, there is a written protest,
30 filed with the clerk of the legislative body, by the owners of more
31 than one-half of the area of the property to be benefited by the
32 improvement, and sufficient protests are not withdrawn so as to
33 reduce the area represented to less than one-half of that to be
34 benefited, then the proposed proceedings shall be abandoned, and
35 the legislative body shall not, for one year from the filing of that
36 written protest, commence or carry on any proceedings for the
37 same improvement or acquisition under this section, unless the
38 protests are overruled by an affirmative vote of four-fifths of the
39 legislative body.



1 Nothing in this section shall preclude the processing and
2 recordation of maps in accordance with other provisions of this
3 division if proceedings are abandoned.

4 Any protests may be withdrawn in writing by the owner who
5 filed the protest, at any time prior to the conclusion of a public
6 hearing held pursuant to the ordinance.

7 If any majority protest is directed against only a portion of the
8 improvement then all further proceedings under the provisions of
9 this section to construct that portion of the improvement so
10 protested against shall be barred for a period of one year, but the
11 legislative body shall not be barred from commencing new
12 proceedings not including any part of the improvement or
13 acquisition so protested against. Nothing in this section shall
14 prohibit the legislative body, within the one-year period, from
15 commencing and carrying on new proceedings for the
16 construction of a portion of the improvement so protested against
17 if it finds, by the affirmative vote of four-fifths of its members, that
18 the owners of more than one-half of the area of the property to be
19 benefited are in favor of going forward with that portion of the
20 improvement or acquisition.

21 If the provisions of this paragraph (6), or provisions
22 implementing this paragraph contained in any ordinance adopted
23 pursuant to this section, are held invalid, that invalidity shall not
24 affect other provisions of this section or of the ordinance adopted
25 pursuant thereto, which can be given effect without the invalid
26 provision, and to this end the provisions of this section and of an
27 ordinance adopted pursuant thereto are severable.

28 (c) Fees paid pursuant to an ordinance adopted pursuant to this
29 section shall be deposited in a planned bridge facility or major
30 thoroughfare fund. A fund shall be established for each planned
31 bridge facility project or each planned major thoroughfare project.
32 If the benefit area is one in which more than one bridge or major
33 thoroughfare is required to be constructed, a fund may be so
34 established covering all of the bridge or major thoroughfare
35 projects in the benefit area. Except as otherwise provided in
36 subdivision (g), moneys in the fund shall be expended solely for
37 the construction or reimbursement for construction of the
38 improvement serving the area to be benefited and from which the
39 fees comprising the fund were collected, or to reimburse the
40 county or a city for the cost of constructing the improvement.

1 (d) An ordinance adopted pursuant to this section may provide
2 for the acceptance of considerations in lieu of the payment of fees.

3 (e) The county or a city imposing fees pursuant to this section
4 may advance money from its general fund or road fund to pay the
5 cost of constructing the improvements and may reimburse the
6 general fund or road fund from planned bridge facilities or major
7 thoroughfares funds established to finance the construction of the
8 improvements.

9 (f) The county or a city imposing fees pursuant to this section
10 may incur an interest-bearing indebtedness for the construction of
11 bridge facilities or major thoroughfares. The sole security for
12 repayment of the indebtedness shall be moneys in planned bridge
13 facilities or major thoroughfares funds. A city or county imposing
14 fees pursuant to this section may enter into joint exercise of powers
15 agreements with other local agencies imposing fees pursuant to
16 this section, for the purpose of, among others, jointly exercising
17 as a duly authorized original power established by this section, in
18 addition to those through a joint exercise of powers agreement,
19 those powers authorized in Chapter 5 (commencing with Section
20 31100) of Division 17 of the Streets and Highways Code for the
21 purpose of constructing bridge facilities and major thoroughfares
22 in lieu of a tunnel and appurtenant facilities, and, notwithstanding
23 Section 31200 of the Streets and Highways Code, may acquire by
24 dedication, gift, purchase, or eminent domain, any franchise,
25 rights, privileges, easements, or other interest in property, either
26 real or personal, necessary therefor on segments of the state
27 highway system, including, but not limited to, those segments of
28 the state highway system eligible for federal participation pursuant
29 to Title 23 of the United States Code.

30 An entity constructing bridge facilities and major thoroughfares
31 pursuant to this section shall design and construct the bridge
32 facilities and major thoroughfares to the standards and
33 specifications of the Department of Transportation then in effect,
34 and may, at any time, transfer all or a portion of the bridge facilities
35 and major thoroughfares to the state subject to the terms and
36 conditions as shall be satisfactory to the Director of the
37 Department of Transportation. Any of these bridge facilities and
38 major thoroughfares shall be designated as a portion of the state
39 highway system prior to its transfer. The participants in a joint
40 exercise of powers agreement may also exercise as a duly

authorized original power established by this section the power to establish and collect toll charges only for paying for the costs of construction of the major thoroughfare for which the toll is charged and for the costs of collecting the tolls, except that a joint powers agency, which is the lending agency, may, notwithstanding subdivision (c), make toll revenues and fees imposed pursuant to this section available to another joint powers agency, which is the borrowing agency, established for the purpose of designing, financing, and constructing coordinated and interrelated major thoroughfares, in the form of a subordinated loan, to pay for the cost of construction and toll collection of major thoroughfares other than the major thoroughfares for which the toll or fee is charged, if the lending agency has complied with all applicable laws, including Chapter 5 (commencing with Section 66000) of Division 1, and if the borrowing agency is required to pay interest on the loan to the lending agency at a rate equal to the interest rate charged on funds loaned from the Pooled Money Investment Account. Prior to executing the loan, the lending agency shall make all of the following findings:

(1) The major thoroughfare for which the toll or fee is charged will benefit from the construction of the major thoroughfare to be constructed by the borrowing agency or will benefit financially by a sharing of revenues with the borrowing agency.

(2) The lending agency will possess adequate financial resources to fund all costs of construction of existing and future projects that it plans to undertake prior to the final maturity of the loan, after funding the loan, and taking into consideration its then existing funds, its present and future obligations, and the revenues and fees it expects to receive.

(3) The funding of the loan will not materially impair its financial condition or operations during the term of the loan.

Major thoroughfares from which tolls are charged shall utilize the toll collection equipment most capable of moving vehicles expeditiously and efficiently, and which is best suited for that purpose, as determined by the participants in the joint exercise of powers agreement. However, in no event shall the powers authorized in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code be exercised unless a resolution is first adopted by the legislative body of the agency finding that adequate funding for the portion of the cost of

1 constructing those bridge facilities and major thoroughfares not
2 funded by the development fees collected by the agency is not
3 available from any federal, state, or other source. Any major
4 thoroughfare constructed and operated as a toll road pursuant to
5 this section shall only be constructed parallel to other public
6 thoroughfares and highways.

7 (g) The term “construction,” as used in this section, includes
8 design, acquisition of rights-of-way, and actual construction,
9 including, but not limited to, all direct and indirect environmental,
10 engineering, accounting, legal, administration of construction
11 contracts, and other services necessary therefor. The term
12 “construction” also includes reasonable general agency
13 administrative expenses, not exceeding three hundred thousand
14 dollars (\$300,000) in any calendar year after January 1, 1986, as
15 adjusted annually for any increase or decrease in the Consumer
16 Price Index of the Bureau of Labor Statistics of the United States
17 Department of Labor for all Urban Consumers, Los Angeles-Long
18 Beach-Anaheim, California (1967=100), as published by the
19 United States Department of Commerce, by each agency created
20 pursuant to Article 1 (commencing with Section 6500) of Chapter
21 5 of Division 7 of Title 1 for the purpose of constructing bridges
22 and major thoroughfares. “General agency administrative
23 expenses” means those office, personnel, and other customary and
24 normal expenses associated with the direct management and
25 administration of the agency, but not including costs of
26 construction.

27 (h) Fees paid pursuant to an ordinance adopted pursuant to this
28 section may be utilized to defray all direct and indirect financing
29 costs related to the construction of the bridges and major
30 thoroughfares by the joint powers agency. Because the financing
31 costs of bridges and major thoroughfares for which a toll charge
32 shall be established or collected represent a necessary element of
33 the total cost of those bridges and major thoroughfares, the joint
34 powers agency constructing those facilities may include a charge
35 for financing costs in the calculation of the fee rate. The charge
36 shall be based on the estimated financing cost of any eligible
37 portion of the bridges and major thoroughfares for which tolls
38 shall be collected. The eligible portion shall be any or all portions
39 of the major thoroughfare for which a viable financial plan has
40 been adopted by the joint powers agency on the basis of revenues



1 reasonably expected by the joint powers agency to be available to
2 the thoroughfare, after consultation with representatives of the fee
3 payers. For purposes of calculating the charge, financing costs
4 shall include only reasonable allowances for payments and
5 charges for principal, interest, and premium on indebtedness,
6 letter of credit fees and charges, remarketing fees and charges,
7 underwriters' discount, and other costs of issuance, less net
8 earnings on bridge and major thoroughfare funds by the joint
9 powers agency prior to the opening of the facility to traffic after
10 giving effect to any payments from the fund to preserve the federal
11 income tax exemption on the indebtedness. For purposes of
12 calculating the charge for financing costs in the calculation of the
13 fee rate only, financing costs shall not include any allowance for
14 the cost of any interest paid on indebtedness with regard to each
15 eligible portion after the estimated opening of the portion to traffic
16 as established by the joint powers agency. Any and all challenges
17 to any financial plan or financing costs adopted or calculated
18 pursuant to this section shall be governed by subdivision (k).

19 (i) Nothing in this section shall be construed to preclude the
20 County of Orange or any city within that county from providing
21 funds for the construction of bridge facilities or major
22 thoroughfares to defray costs not allocated to the area of benefit.

23 (j) Any city within the County of Orange may require the
24 payment of fees in accordance with this section as to any property
25 in an area of benefit within the city's boundaries, for facilities
26 shown on its general plan or the county's general plan, whether the
27 facilities are situated within or outside the boundaries of the city,
28 and the county may expend fees for facilities or portions thereof
29 located within cities in the county.

30 (k) The validity of any fee required pursuant to this section
31 shall not be contested in any action or proceeding unless
32 commenced within 60 days after recordation of the resolution
33 described in paragraph (3) of subdivision (b). The provisions of
34 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
35 the Code of Civil Procedure shall be applicable to this action or
36 proceeding. This subdivision shall also apply to modifications of
37 fee programs.

38 (l) If the County of Orange and any city within that county have
39 entered into a joint powers agreement for the purpose of
40 constructing the bridges and major thoroughfares referred to in

1 Sections 50029 and 66484.3, and if a proposed change of
2 organization or reorganization includes any territory of an area of
3 benefit established pursuant to Sections 50029 and 66484.3,
4 within a successor local agency, the local agency shall not take any
5 action that would impair, delay, frustrate, obstruct, or otherwise
6 impede the construction of the bridges and major thoroughfares
7 referred to in this section.

8 (m) Nothing in this section prohibits the succession of all
9 powers, obligations, liabilities, and duties of any joint powers
10 agency created pursuant to subdivision (l) to an entity with
11 comprehensive countywide transportation planning and operating
12 authority which is statutorily created in the County of Orange and
13 which is statutorily authorized to assume those powers,
14 obligations, liabilities, and duties.

15 SEC. 5. Section 99150 of the Public Utilities Code is amended
16 to read:

17 99150. In locating its bus stops, park and ride service
18 facilities, and special service terminal points and stations, a transit
19 district shall consult with, and consider the recommendations of,
20 the city if transit facilities are to be located therein, or the county
21 if transit facilities are to be located in the unincorporated area
22 thereof, on the proposed locations.

23 The city or county, as the case may be, in making its
24 recommendations to the transit district on the proposed location of
25 the transit facilities, shall consider whether the proposed location
26 is consistent with the transportation element of its general plan.

27 SEC. 6. Section 75.9 of the Streets and Highways Code is
28 amended to read:

29 75.9. Upon the selection, adoption, and determination of the
30 location for a state highway or freeway, the commission shall
31 notify all planning agencies and legislative bodies having
32 responsibility pursuant to Section 65300 of the Government Code
33 for the adoption of the general plan or plans in the area affected by
34 the commission action. Within 90 days after receipt of notice, all
35 planning agencies and legislative bodies shall revise the
36 transportation element of their general plans to reflect the
37 commission action.

38 SEC. 7. Section 21101 of the Vehicle Code is amended to
39 read:



1 21101. Local authorities, for those highways under their
2 jurisdiction, may adopt rules and regulations by ordinance or
3 resolution on the following matters:

4 (a) Closing any highway to vehicular traffic when, in the
5 opinion of the legislative body having jurisdiction, the highway is
6 either of the following:

7 (1) No longer needed for vehicular traffic.

8 (2) The closure is in the interests of public safety and all of the
9 following conditions and requirements are met:

10 (A) The street proposed for closure is located in a county with
11 a population of 6,000,000 or more.

12 (B) The street has an unsafe volume of traffic and a significant
13 incidence of crime.

14 (C) The affected local authority conducts a public hearing on
15 the proposed street closure.

16 (D) Notice of the hearing is provided to residents and owners
17 of property adjacent to the street proposed for closure.

18 (E) The local authority makes a finding that closure of the street
19 likely would result in a reduced rate of crime.

20 (b) Designating any highway as a through highway and
21 requiring that all vehicles observe official traffic control devices
22 before entering or crossing the highway or designating any
23 intersection as a stop intersection and requiring all vehicles to stop
24 at one or more entrances to the intersection.

25 (c) Prohibiting the use of particular highways by certain
26 vehicles, except as otherwise provided by the Public Utilities
27 Commission pursuant to Article 2 (commencing with Section
28 1031) of Chapter 5 of Part 1 of Division 1 of the Public Utilities
29 Code.

30 (d) Closing particular streets during regular school hours for
31 the purpose of conducting automobile driver training programs in
32 the secondary schools and colleges of this state.

33 (e) Temporarily closing a portion of any street for celebrations,
34 parades, local special events, and other purposes when, in the
35 opinion of local authorities having jurisdiction or a public officer
36 or employee that the local authority designates by resolution, the
37 closing is necessary for the safety and protection of persons who
38 are to use that portion of the street during the temporary closing.

39 (f) Prohibiting entry to, or exit from, or both, from any street
40 by means of islands, curbs, traffic barriers, or other roadway

1 design features to implement the transportation element of a
2 general plan required pursuant to Article 5 (commencing with
3 Section 65300) of Chapter 3 of Division 1 of Title 7 of the
4 Government Code. The rules and regulations authorized by this
5 subdivision shall be consistent with the responsibility of local
6 government to provide for the health and safety of its citizens.

7 SEC. 8. Section 35701 of the Vehicle Code is amended to
8 read:

9 35701. (a) Any city, or county for a residence district, may,
10 by ordinance, prohibit the use of a street by any commercial
11 vehicle or by any vehicle exceeding a maximum gross weight
12 limit, except with respect to any vehicle which is subject to
13 Sections 1031 to 1036, inclusive, of the Public Utilities Code, and
14 except with respect to vehicles used for the collection and
15 transportation of garbage, rubbish, or refuse using traditionally
16 used routes in San Diego County when the solid waste
17 management plan prepared under Section 66780.1 of the
18 Government Code is amended to designate each traditionally used
19 route used for the purpose of transporting garbage, rubbish, or
20 refuse which intersects with a local or regional arterial circulation
21 route contained within a city or county's transportation element
22 and which provides access to a solid waste disposal site.

23 (b) The ordinance shall not be effective until appropriate signs
24 are erected indicating either the streets affected by the ordinance
25 or the streets not affected, as the local authority determines will
26 best serve to give notice of the ordinance.

27 (c) No ordinance adopted pursuant to this section after
28 November 10, 1969, shall apply to any state highway which is
29 included in the National System of Interstate and Defense
30 Highways, except an ordinance which has been approved by a
31 two-thirds vote of the California Transportation Commission.

32 (d) The solid waste management plan prepared under Section
33 66780.1 of the Government Code by San Diego County may
34 designate the traditionally used routes.

35 (e) "Traditionally used route," for purposes of this section,
36 means any street used for a period of one year or more as access
37 to or from a solid waste disposal site.

